THE HON'BLE SRI JUSTICE V.V.S.RAO
AND
THE HON'BLE SRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION No.7770 of 2003

Dated:15.06.2007

Between:

Kakirala Omkareswara Rao and another.

…Petitioners

and

The Special Deputy Tahsildar and another.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO
AND
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ORDER: (Per the Hon'ble Sri Justice V.V.S.Rao)

The petitioners are non-tribals. They purchased an extent of Acs.18.14 cents of land in R.S.No.12 situated at Barri Kalspadu Village of Jeelugumilli Mandal in West Godavari District. This land allegedly never belonged to Tribals in the agency area. The Special Deputy Collector (Tribal Welfare), Kota Ramachandrapuram, initiated action under Section 3(2)(a) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Regulation No.I of 1959) as amended by Regulation I of 1970 (hereinafter called 'the Regulation'). After receiving notice, the petitioners opposed the proceedings for ejectment. They also produced evidence in support of their contention that the land in their possession is never tribal land. However, accepting the plea, the Special Deputy Collector disallowed the case, being S.R.No.4 of 1987, through order, dated 27.11.1987. The Special Deputy Tahsildar (Tribal Welfare), Kota Ramachandrapuram, filed appeal in 2003. The same was registered as S.R.A.No.125 of 2003 by the second respondent, who issued notice of enquiry. Assailing the said notice, this Writ Petition is filed.

Learned counsel for the petitioners submits that the action of the

second respondent in entertaining appeal under Section 3(2)(a) of the Regulation after lapse of sixteen years without there being any application for condonation of delay is improper, and entertaining appeal filed after a period of limitation amounts to acting without jurisdiction. **Per contra**, learned Government Pleader for Social Welfare invites the attention of this Court to Section 3(2)(a) of the Regulation and Rule 8 of the Andhra Pradesh Scheduled Areas Land Transfer Rules, 1969 (for short 'the Rules'), and submits that for sufficient reasons, delay in filing the appeal can be condoned. He, however, does not dispute that the Special Deputy Tahsildar while preferring appeal after a period of sixteen years did not file any application for condonation of delay.

In the background of facts, as briefly narrated hereinabove, it has come out that the appeal was indeed filed after a period of sixteen years without proper application for condonation of delay. In the absence of such application, entertaining appeal and issue of notice of enquiry by the second respondent cannot be sustained in law. Be it noted that under Rule 8(2) of the Rules, an appeal is to be filed within a period of two months from the date of order of the original authority, and under Section 3(2)(b) of the Regulation power is vested in the appellate authority to entertain appeal on sufficient cause being shown after expiry of the period of limitation. Even now, it is open to the Special Deputy Tahsildar (Tribal Welfare) to file proper application before the second respondent for condonation of delay. This application, it goes without saying, has to be considered by the second respondent after issuing notices to the petitioners individually. Only after condonation of delay for sufficient cause the first respondent can proceed further. In case sufficient cause is not shown and there are no proper reasons for filing appeal with abnormal delay of sixteen years, the appeal cannot be entertained.

These Writ Petition, with the above observations and directions, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

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(G.V.SEETHAPATHY, J)

15.06.2007

Note:Issue C.C. in one week.

(B/o)

GJ